



HISTORIC PRESERVATION COMMISSION

ORDINANCE REVISIONS

Sec. 62-35. Purpose.

In support and furtherance of its findings and determination that the historical, cultural and aesthetic heritage of the City of St. Marys is among its most valued and important assets and that the preservation of this heritage is essential to the promotion of the health, prosperity and general welfare of the people; in order to stimulate revitalization of the waterfront district and historic neighborhoods and to protect and enhance historical and aesthetic qualities of the city for the enjoyment of the city's residents and visitors alike; in order to enhance the opportunities for federal tax relief of property owners under relevant provisions federal law. In order to provide for designation, protection, preservation and rehabilitation of historic properties and districts and to participate in federal programs to do the same; in order that the above activities will perpetuate the city's high quality of life for present and future generations. The mayor and council of the City of St. Marys hereby declare it to be the purpose and intent of this article to establish a uniform procedure for use in providing for the protection, enhancement, perpetuation and use of places, districts, sites, buildings, structures and works of art having a special historical, cultural or aesthetic interest or value, in accordance with the provisions of the article.

Sec. 62-36. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. When a definition is required that is not listed, the New American Dictionary, latest edition shall be the source for the definition.

Alteration of Structure: The visually observable change to any element of a structure within the designated historic district.

Building: A building is a structure created to shelter any form of human activity, such as a house, barn, church, hotel or similar structure. Building may refer to a historically related complex such as a courthouse and jail, or a house and barn.

Building official: the Planning and/or Building Department Director or his designated staff of the City of St. Marys.

Certificate of appropriateness: a document evidencing approval by the historic preservation commission of an application to make a material change in the appearance of a designated historic property or of a property located within a designated historic district.

Character: For the purposes of this ordinance, character shall be defined as features of the structure and adjacent structures that contribute to the overall visual appearance of the street of grouping of the structures.

Code Compliance Officer (CCO): For the purposes of this ordinance, any reference to Code Enforcement shall refer to the properly designated CCO.

Commission: the St. Marys historic preservation commission.

Demolition and/or Removal of a structure: The physical act of removing permanently any structure or any part of any structure. For the purposes of this article, the term demolition and removal shall have identical definitions as outlined herein.

Designated districts: a historic district or historic property.

Erection of Structure: The building of - or raising of - any structure from the existing grade upwards or outwards or from any floor upwards or outwards.

Exterior architectural features: to include, but not be limited to, the architectural style, general design, height of the structure, mass of the structure, and scale of the structure, the general arrangement of the exterior of a building or other structure, the kind or texture of the building material and the type and style of all windows, doors, signs and other appurtenant architectural fixtures, features, details or elements relative to the foregoing.

Exterior environmental features: all those aspects of the landscape or the development of the site which affect the historical character of the property to include, but not be limited to, trees, walks, curbs, landscaping of any kind, trellises, sidewalks, curbs, exterior lighting features, fountains, carports, **pools (in ground or above ground), heavy-duty playground equipment (fixed to ground or unfixed)**, and/or signage.

Hardship: Hardship shall be as defined in Section 62-180 (b).

Height: Height shall be as per the zoning ordinances of the City of St. Marys. Height of the structure shall not exceed the heights noted in the Zoning Ordinance, but may be less. Lower height based on the historic character of the surrounding structures may be enforceable by the HPC.

Historic Buffer District: An area of the City that borders the Historic District but is not within the physical and legal jurisdiction of the Historic Preservation Commission. Structures in this area may be eligible for inclusion into either the existing Historic District or within a new District as designated by Council and approved by the Historic Preservation Division of the Georgia Department of Natural Resources.

Historic district: either the St. Marys Historic District or a geographically definable area which contains structures, sites, works of art or a combination thereof which exhibit a special historical, architectural, or environmental character as either designated or recommended by the mayor and/or council and/or the HPC.

Historic District Survey: An on-the-ground survey of structures within any designated Historic District that identifies the salient features of the structures, listing all available historic and visual features of the structure in a format acceptable to the Historic Preservation Division of the Georgia Department of Natural Resources

Historic property: an individual structure, site, or work of art which exhibits a special historical, architectural or environmental character as either designated or recommended by the mayor and/or council and/or the HPC.

Mass: The mass of the structure is its overall bulk and visual presence of all elements of any particular structure. Mass is related to scale in that some structures having large mass are in scale in certain instances and out of scale in other instances.

Material change in appearance: a change that will affect either the exterior architectural or environmental features of a property within a designated district or site may include any one of the following. All work shall be in strict accordance with Secretary of the Interiors Standards for Historic Preservation.

- (1) A reconstruction or alteration of the size, shape, height, mass, scale or facade of an existing building or structure or a historic property, including any of its architectural elements or details.
- (2) Demolition or relocation of a building or a structure.
- (3) Commencement of excavation for construction purposes as noted in (1) above.
- (4) A change in the location of all advertising visible from the public right-of-way, including free standing signs, window signs, wall mounted signs and banners, etc. All signs in the Historic District shall comply with all requirements of the City of St. Marys sign ordinance.
- (5) The erection, alteration, restoration or removal of any building or other structure, including walls, fences, steps and pavements, or other appurtenant features, except exterior paint alterations.
- (6) The construction or removal of exterior environmental features.

Object: An Object is a material thing of functional, aesthetic, cultural, historical or scientific value that may be, by nature or design, moveable yet related to a specific setting or environment.

Relocation of a structure: The physical relocation of a structure from its original site to a new site or location. Relocation or raising of a structure to comply with Flood Plain Regulations is permitted.

Restoration of a structure: The repair of any element of any structure to its original appearance using identical materials or historically correct alternate materials as approved by the HPC.

Scale: The relationship of the structure to its surrounding site and/or structures. Scale is mostly a subjective analysis of the overall effect on the neighborhood of the introduction of any new structure into the existing built environment.

Site: A site is the locations of a significant event, a prehistoric or historical occupation or activity, or a building or structure, whether standing, ruined or vanished, where the location itself maintains historical or archaeological value regardless of the value of any existing structure.

Structure: A structure is a work made up of interdependent and interrelated parts in a definite pattern of organization. Constructed by man, it is often an engineering project large in scale.

Sec. 62-37. Penalty.

Violations of any provisions of this article shall, upon conviction, be punished as provided in section 1-12.

Secs. 62-38-62-60. Reserved.

DIVISION 2. HISTORIC PRESERVATION COMMISSION*

Sec. 62-61. Creation.

There is created a commission the title which shall be the "St. Marys Historic Preservation Commission, referred to in this article as the historic preservation commission.

Sec. 62-62. Position within city government.

The historic preservation commission shall be considered ~~a part~~ within the jurisdiction of the planning department of the City of St. Marys. This ordinance shall supersede and replace, in its entirety, any and all past ordinances related to historic preservation within the City of St. Marys.

Sec. 62-63. Members.

The historic preservation commission shall consist of seven members appointed by majority vote of the mayor and city council, who shall be full time residents of the City of St. Marys for a continuous period in excess of one (1) year and have a demonstrated special interest, experience or education in history, architecture or the preservation of historic resources. There shall be no less than five members of the historic preservation commission who are residents of designated City of St. Marys historic districts as established in this article and subsequent ordinances. ~~No less than~~ **A maximum of** two members of the commission may be appointed at large from the general full time resident population of the City of St. Marys. To the extent available the mayor and council shall appoint from among professional members from the disciplines of architecture, history, architectural history, planning, archeology or other historic preservation related discipline such as urban planning, American Studies, American civilization, cultural geography, or cultural anthropology. Members shall serve three-year staggered terms. Members may not serve more than two consecutive terms. In order to achieve staggered terms the initial appointment shall be as follows: two members for one year; two members for two years; and three members for three years. Members shall not receive a salary although they may be reimbursed for expenses.

Sec. 62-64. Powers of and authority of the Historic Preservation Commission.

The historic preservation commission shall be authorized to:

- (1) Prepare an inventory of all property within the City of St. Marys having the potential for designation as historic property.
- (2) Recommend to the mayor and council of the City of St. Marys specific places, sites, buildings, structures, objects or works of art and districts to be designated by ordinance as historic properties or historic districts.
- (3) Review and/or provide guidance for any applications for certificates of appropriateness, and grant or deny same in accordance with the provisions of this article.
- (4) Recommend to the City of St. Marys city council that the designation of any place, district, site, building, structure, object or work of art as an historic property or as an historic district be revoked or removed.
- (5) Review the change in exterior architectural appearance or exterior environmental appearance of any city-owned property within designated districts and sites.
- (6) Monitor the condition of designated districts and sites and determine if a condition of demolition by neglect exists. If such a condition does exist. See section 62-178 below for process for correction of deficiencies.
- (7) Promote the acquisition by the city of facade easements and conservation easements, as appropriate, in accordance with the provisions of *Georgia Uniform Conservation Easement Act of 1992* (O.C.G.A. Section 44-10.1 through 5).
- (8) Conduct educational programs on historic properties located within the City of St. Marys and on general historic preservation activities.
- (9) Make such investigations and studies of matters relating to historic preservation, including consultation with historic preservation experts, the City of St. Marys City Council as the historic preservation commission itself may, from time to time, deem necessary or appropriate for the purposes of preserving historic resources.
- (10) Seek out state and federal funds for historic preservation, and make recommendations to the City of St. Marys city council concerning the most appropriate uses of any funds acquired.
- (11) Submit to the Historic Preservation Division of the Georgia Department of Natural Resources a list of historic properties or historic districts designated and provide the historic preservation Division whatever information is needed to nominate these to the National Register of Historic Places.
- (12) Perform historic preservation activities as the official agency of the City of St. Marys historic preservation program.

- (13) Employ persons, if necessary, to carry out the responsibilities of the historic preservation commission; the historic preservation commission shall not obligate the city without prior consent.
- (14) Receive donations, grants, funds, or gifts of historic property, and to acquire and sell historic properties; the historic preservation commission shall not obligate the city without prior consent.
- (15) Restore or preserve any historic properties acquired by the city and/or the HPC as directed by City Council.
- (16) Review and make comments to the Historic Preservation Division of the Department of Natural Resources and/or the Coastal Regional Commission as applicable concerning the nomination of properties within its jurisdiction to the National Register of Historic Places.
- (17) Participate in private, state and federal historic preservation programs and with the consent of the City of St. Marys City Council, and enter into agreements to do the same.

Sec. 62-65. Historic Preservation Commission's Power to Adopt Rules and Standards:

The historic preservation commission shall adopt rules for the transaction of its business and for consideration of application for designation of Certificates of Appropriateness, such as by-law, removal of membership provision, and design guidelines and criteria. The historic preservation commission shall have the flexibility to adopt rules and standards without amendment to this ordinance. The Historic Preservation Commission shall provide for the time and place of regular meetings and a method for the calling of special meetings. A quorum shall consist of a majority of the members. The commission shall select a chairman and such officers as it deems appropriate from among its members.

Sec. 62-66. Authority to receive funding from various sources.

The historic preservation commission shall have the authority to accept donations and shall ensure that these funds do not displace appropriated governmental funds.

Sec. 62-67. Records of meetings.

A public record shall be kept of the historic preservation commission's resolutions, proceedings and actions. The City of St. Marys shall designate staff from the Planning Department to take the minutes and provide a written record of all motions, discussion on the motion, and vote. Planning Department staff shall also coordinate the receipt of all information necessary for HPC review and for all notifications to applicant and adjacent property owners of any pending action or the results of any action by the HPC. Minutes shall be kept in electronic form by scanned written documents. Minutes are open records available to all citizens under the open records act using the open records rules and procedures.

Sec. 62-68. Conflicts of interest.

- (a) The Historic Preservation Commission shall be subject to all conflict of interest laws set forth in Georgia Statutes and in the City of St. Marys Charters.
- (b) At any time the historic preservation commission reviews a project in which a member of the commission has ownership or other economic or vested financial or property interest, that member will be forbidden from presenting, voting, or discussing the project, other than answering a direct question.
- (c) If the building official of the city determines that there is a conflict of interest as outlined in this section, he shall issue a stop-work order immediately and call an emergency meeting of the commission. The building official will present his findings to the commission and the commission may either:
 - (1) Sustain the building official and require that an application for certificate of appropriateness be resubmitted and approved before the project may proceed; or
 - (2) Overturn the decision of the building official and allow the project to proceed without further delay.

Sec. 62-69. Removal of members.

If a member of the historic preservation commission misses more than three consecutive regularly scheduled meetings in any consecutive 12 month period without written notification of the chairman of the historic preservation commission, the member shall be automatically removed from the historic preservation commission and the mayor and city council shall appoint a replacement according to the procedure outlined herein for membership.

Sec. 62-70 Conflict of interest complaints or alleged ethics violations

Any complaint of alleged conflict of interest or other alleged ethics violations against any member of the HPC shall be immediately forwarded to the City of St. Marys Ethics Board for review and determination. The HPC will not be involved in the resolution of any matter brought before the Ethics Commission

Secs. 62-71--62-85. Reserved.

DIVISION 3. JURISDICTION OF COMMISSION

Sec. 62-86. Designation of St. Marys historic district.

(a) Since the St. Marys historic district has been recognized in local ordinance by the City of St. Marys and by listing in the National Register of Historic Places since 1978, this document will serve as the primary jurisdiction for the historic preservation commission.

(b) The boundaries of the St. Marys historic district shall conform to the boundaries as listed in the National Register of Historic Places and as per the map official identified as Attachment A which is incorporated into this ordinance by this reference thereto.

(c) Evaluation of the properties within the St. Marys historic district shall be by the HPC or their designated staff or consultant. Individual properties within the historic district shall be classified as:

- (1) Historic (more than 50 years old and contributing to the historical character of the district).
- (2) Historic-obsured (more than 50 years old but not contributing to the historical character of the district due to unsympathetic but not irreparable alterations).
- (3) Non-historic (less than 50 years old if possessing architectural character).
- (4) Intrusions (structures of any age which detract from the historical character of the district).
- (5) Vacant.

(d) The historic preservation commission shall – subject to available funding – keep an up-to-date listing of all properties either located within the district or any properties outside of the district that become older than 50 years from any given date.

Sec. 62-87. Preliminary research by historic preservation commission.

(a) *Historic Preservation Commission's mandate to conduct survey of local historical resources.* The historic preservation commission shall have the authority to compile and collect information and conduct historic resources surveys within the City of St. Marys.

(b) *Historic Preservation Commission's power to recommend districts and buildings to The City of St. Marys city council for designation.* The commission shall present to the mayor and city council recommendations for the designation of historic districts and historic properties.

(c) *Historic Preservation Commission's Documentation of Proposed Designation:* Prior to the Historic Preservation Commissions recommendation of a historic district or historic property to the City of St. Marys City Council for designation, the Historic Preservation Commission shall prepare a Report for Nomination in accordance with requirements of the Historic Preservation Division of the Georgia Department of Natural Resources that consist of the following items. The following items shall apply for new historic districts and/or properties as well as for expansion or amendment of existing historic districts and/or properties.

1. A physical description.
2. A statement of the historical, cultural, architectural and or aesthetic significance.
3. A map showing district boundaries and classification {i.e. contributing, non-contributing, OR historic, non-historic, vacant, intrusive} of individual properties therein, or showing boundaries of individual historic properties.
4. Representative photographs.

Sec. 62-88. Designation of additional historic districts; amendments to St. Marys historic district.

(a) *Criteria for selection of historic districts.* A historic district is a geographically definable area by itself or which is contiguous to the St. Marys historic district, which contains structures, landscape, sites, grave markers, works of art or a combination thereof which:

- (1) Have special character or special historic/aesthetic value or interest.
- (2) Exemplify the history of the city, the county, the state or coastal area.
- (3) Cause such area, by reason of such factors, to constitute a visibly perceptible section of the city, such as a historically compact grouping of structures.

(b) *Boundaries of historic district.* Boundaries of a historic district shall be specified on tax maps; these boundaries will be included in the separate ordinances designating local districts. Boundaries specified in legal notices shall coincide with the boundaries finally designated. Districts shall be shown on the official zoning map of the city.

(c) *Evaluation of properties within designated historic districts.* Areas within additional historic districts shall be classified as follows:

- (1) Historic (more than 50 years old and contributing to the district).
- (2) Historic-obsured (more than 50 years old but not contributing to the character of the district because of substantial but not irreparable changes).
- (3) Non-historic (less than 50 years old yet possessing architectural character).
- (4) Intrusions (buildings of any age which detract from the historical character of the district).
- (5) Vacant lots.

A list of properties in the proposed historic district and their classifications shall be included in every ordinance designating a historic district.

(d) *Affirmation of existing zoning.* This article is not a use ordinance, and local zoning laws, where they exist, remain in effect until modified.

Sec. 62-89. Designation of historic properties.

(a) *Criteria for selection of properties.* A historic property is a building, structure, site, work of art, including the adjacent area necessary for the proper appreciation or use thereof, deemed worthy of preservation by reason of value to the city, the county, the state or coastal area, for one or more of the following reasons:

- (1) It is an outstanding example of a structure representative of its era.
- (2) It is one of the few remaining examples of past architectural style.
- (3) It is a place or structure associated with an event or person of historic or cultural significance to the city, the county, the State of Georgia, the United States of America, or the coastal region.
- (4) It is a site of natural or aesthetic interest that is continuing to contribute to the cultural or historical development and heritage of the city, the county, the State of Georgia, the United States of America or the coastal area.

(b) *Boundaries of historic property.* Boundaries of a historic property shall be specified on tax maps; these boundaries will be included in separate ordinances designating historic properties; boundaries specified in legal notices shall correspond with the boundaries finally designated; historic properties shall be shown on the official zoning map of the city.

Sec. 62-90. General matters affecting the designation of additional historic districts, historic properties or historic buffer areas.

(a) *Application for designation of historic district or historic property.* Designations may be proposed by the City of St. Marys City Council, the Historic Preservation commission, or:

- (1) for Historic districts -- a historical society, neighborhood association or group of property owners may apply to the Historic Preservation Commission for designation.
- (2) for Historic properties -- a historical society, neighborhood association or property owner may apply to the Historic Preservation Commission for designation.

(b) *Required public hearings.* The commission or the City of St. Marys shall hold public hearing on the proposed ordinance for designation of any historic district or property. Notice of the hearing shall be published in at least three (3) consecutive issues in the principal newspaper of local circulation, and written notice of the hearing shall be mailed by the historic preservation commission to all owners and occupants of such properties. All such notices shall be published or mailed not less than ten (10) nor more than twenty (20) days prior to date set for the public hearing. A letter sent via the United States mail to the last-known owner of the property, as recorded on the tax rolls in the county tax assessor's office, and a notice sent via 'attention of the Occupant' shall constitute legal notification to the owner and occupant under this ordinance.

(c) *Notification of property owners of proposed designation.* Any ordinance recommending any property as a part of a historic district or as a historic property for designation shall:

- (1) Describe each property to be designated, which shall include, as a minimum:
 - a. physical description.
 - b. A statement of the historical, cultural, architectural and or aesthetic significance.
 - c. A map showing district boundaries and classification {i.e. contributing, non-contributing, OR historic, non-historic, vacant, intrusive} of individual properties therein, or showing boundaries of individual historic properties.
 - d. Tax Parcel number and other site related data.
 - e. Representative color photographs of all facades of the building and any significant details (digital ok).
 - f. Photographs of the streetscape approaching the site from both directions (digital ok).
- (2) Set forth the names of all known present and historic owners of the properties to be designated.
- (3) After designation of the area a certificate of appropriateness must be obtained from the historic preservation commission prior to any material change in appearance to the property as defined in the definition section of this ordinance.

(d) *Requirements regarding district boundaries.* Any ordinance designating any property as a historic property, or as part of a historic district area shall require that the designated property district be shown on the official zoning map of the city and kept as public record to provide notice of such designation.

(e) *Notification of historic preservation Division:* No less than thirty (30) days prior to the recommendation on any ordinance designating any property or district as historic, the Historic Preservation Commission must submit a report on the historic, cultural, architectural, or aesthetic significance of each place, district, site, building/structure, or work of art, to the historic preservation Division of the Department of Natural Resources. Once a historic district or historic property has been

designated by the city council, the Historic Preservation commission shall work with the Coastal Georgia CRC area planning and development commission historic preservation planner to provide whatever additional information is needed by the historic preservation Division to nominate the designated district or site to the National Register of Historic Places.

(f) *Recommendations on proposed designations.* A recommendation to affirm, modify or withdraw the proposed ordinance for designation shall be made within 15 days following the public hearing, and shall be in the form of a resolution by the City of St. Marys city council.

(g) *The City of St. Marys City Council Actions on the Commission's Recommendation:* Following receipt of the Commission recommendation, the City of St. Marys City Council may adopt the ordinance as proposed, may adopt the ordinance with any amendments they deem necessary, or reject the ordinance.

(h) *Notification of adoption of ordinance for designation.* Within 30 days immediately following the adoption of the ordinance for designation, the owners and occupants of each designated historic property, and the owners and occupants of each building, structure, site, object or work of art located within a designated historic district shall be given written notification of such designation by the City of St. Marys city council, which notice shall apprise the owners and occupants of the necessity of obtaining a certificate of appropriateness for undertaking any material change in appearance of a property which is a part of a designated district or site. A notice sent via the United States mail to the last-known owner of the property, as recorded on the tax rolls in the county tax assessor's office, and/or a notice sent via 'attention of the Occupant' shall constitute legal notification to the owner and occupant under this ordinance.

(i) *Notification of other agencies regarding designation.* The commission shall notify all necessary agencies within the city of the ordinance for designation, including the mayor and city council, the planning commission and the office of building official and zoning official. The commission will also notify individuals and agencies throughout the city, the county, the state and coastal area likely to be interested in the ordinance.

(j) *Moratorium on applications for alteration or demolition while ordinance for designation is pending.* If an ordinance for designation is being considered, the Historic Preservation Commission shall have the power to freeze the status of the involved property.

Secs. 62-91--62-109. Reserved.

DIVISION 4. CERTIFICATE OF APPROPRIATENESS

Sec. 62-110. Definition of Applicant

The application for any certificate of appropriateness shall be in person by the owner(s) of the structure or parcel. In the event that the owner(s) are physically or mentally unable to present the application in person, a notarized letter authorizing another individual to represent them must be submitted at the time of the submission of the application. If the owner(s) or authorized individual as defined herein is not present at the stated meeting, the application will be postponed without review until the next regularly scheduled meeting.

Sec. 62-111. Exterior architectural features

Approval of alterations to the exterior architectural features of existing buildings in historic districts, or historic properties, is required. After the designation by ordinance of a historic district or a historic property, no material change in the exterior architectural appearance of any existing building within these areas shall be permitted to be made by the owner or occupant thereof unless or until an application for a certificate of appropriateness has been submitted to and approved by the commission. The certificate of appropriateness will certify that the change in exterior architectural appearance is compatible with the historical features of the building being altered and the adjoining properties.

Sec. 62-112. Approval of new construction within historic districts, or historic properties.

After the designation by ordinance of a historic district or historic property, no new building or structures shall be constructed until the owner or occupant thereof has submitted an application for a certificate of appropriateness to the commission and the commission has approved it. These structures or developments shall conform in design, scale, building materials, setback and other exterior architectural features to the character of the designated district and site as specified in the commission's design guidelines. Decisions of the historic preservation commission shall not override or supersede the requirements of the official zoning ordinances of the City of St. Marys without utilizing the procedures outlined in the Zoning Ordinance 110. All property directly abutting the project under consideration shall be notified in writing as to the presence of an application for consideration by the HPC. Notification shall be only to abutting property owners that share a property line, and shall not cross any street or right of way or major water course or feature.

Sec. 62-113. Changes to exterior environmental features on historic properties and in historic districts.

After the designation by ordinance of a historic district or historic property no changes in exterior environmental features shall occur unless an application for a certificate of appropriateness has been submitted by or for the owner to the commission and approved by the commission. . Decisions of the historic preservation commission shall not override or supersede the requirements of the official zoning ordinances of the City of St. Marys without utilizing the procedures outlined in the Zoning Ordinance 110. All property directly abutting the project under consideration shall be notified in writing as to the presence of an application for consideration by the HPC. Notification shall be only to abutting property owners that share a property line, and shall not cross any street or right of way or major water course or feature.

Two basic types of activities shall constitute change to exterior environmental features:

- (1) The removal or alteration of exterior environmental features which affect a property historically/aesthetically. These features shall include: trees ten inches in diameter measured at a point 24 inches above the ground, the topography of a property, paving materials, fencing, lighting fixtures and outbuildings.
- (2) The addition of exterior environmental features which will affect the historic/aesthetic qualities of a property. These features shall include: driveways, walkways, parking lots, fences, outbuildings, lighting fixtures and permanent yard signs.

Disposition of ALL trees in the Historic District shall be determined by either the HPC or the City of St. Marys Tree Board in compliance with this section. Within the Historic District, where a tree is dead, diseased or in otherwise poor health, the Tree Board will have sole jurisdiction as to its removal. Within the Historic District, where a tree is healthy and requested to be removed by either the City or a Property Owner, the Historic Preservation Commission shall have sole jurisdiction as to its removal. However, the HPC requires that for all live oak trees determined to be removed for any reason, one new live oak of minimum diameter of 2.5" shall be planted on the site. Replacement of other species of trees shall be replaced as per the requirements of the Tree Board.

If a dead or damaged tree poses an immediate and/or imminent physical threat to the safety of the community, or danger to citizens, historic property, or other property as evidenced by appropriate documentation by either a tree removal specialist, the building Director or Planning Director, the Planning Director may authorize its removal without going before the historic preservation commission, with notification to the HPC, the Tree Board, and the City Manager. The City Manager will notify Council of this action. Documentation shall be in writing with appropriate data as necessary to state the reasons for the immediate removal of the tree(s).

If the Tree Board is eliminated by direct action of Council, all jurisdiction of trees shall be transferred to the HPC. In the event of any conflict with the Tree Board ordinances, the HPC ordinance shall govern.

Sec. 62-114. Guidelines and criteria.

When considering applications for certificates of appropriateness to existing buildings, the Secretary of the Interior's Standards of Rehabilitation shall be used as a guideline along with any other criteria adopted by the commission. When considering applications for certificates of appropriateness for new construction the City of St. Marys, Georgia's New Construction and Design Guidelines shall be used as a guideline along with any other criteria adopted by the commission.

A. ALL facades of the building and all structures or other site features visible from the public street or public alley and directly adjacent to the public street or alley shall be within the jurisdiction of the Historic Preservation Commission.

B. Signs located within the St. Marys Historic District

- (1) Purpose. In support and furtherance of its findings and determination that the historical, cultural and aesthetic heritage of the City of St. Marys is among its most valued and important assets and that the preservation of this heritage is essential to the promotion of the health, prosperity and general welfare of the people; in order to stimulate revitalization of the waterfront district and historic neighborhoods and to protect and enhance historical and aesthetic qualities of the city for the enjoyment of the city's residents and visitors alike; in order to enhance the opportunities for federal tax relief of property owners under relevant provisions federal law. In order to provide for designation, protection, preservation and rehabilitation of historic properties and districts and to participate in federal programs to do the same; in order that the above activities will perpetuate the city's high quality of life for present and future generations. The Mayor and Council of the City of St. Marys hereby declare it to be the purpose and intent of this article to establish a uniform procedure for use in providing for the protection, enhancement, perpetuation and use of places, districts, sites, buildings, structures and works of art having a special historical, cultural or aesthetic interest or value, in accordance with the provisions of the article.
- (2) Definitions. For the purposes of this article and except as may be revised herein, definitions of any term shall be consistent with the definitions contained in Section 46-137 of the Ordinances of the City of St. Marys. In the

absence of any definition listed below, the New American Dictionary, latest edition shall be used to provide the proper definition.

- (3) General: Any sign proposed to be erected within physical limits of the St. Marys Historic District regardless of the underlying zoning shall be submitted for a Certificate of Appropriateness (COA) from the Historic Preservation Commission (HPC). The Planning Commission will not review or approve any signage within the Historic District.
- (4) Adherence to HPC Guidelines: All owners or prospective owners of businesses or residential properties in the Historic District must adhere to HPC guidelines whose sole purpose is to retain the historic character of the district. All signs visible from the public street or public alley and/or directly adjacent to the public street or alley shall be within the jurisdiction of the HPC.
- (5) Criteria: When considering applications for certificates of appropriateness for new or revised signage in the historic district, the HPC shall use the criteria contained within this ordinance.
 - a. For the purposes of this section, the term signs shall include banners, fixed signage, free standing signage, flags, sandwich board signs, push-in signs, streamers, balloons, canopy advertising, umbrella advertising, mobile parked vehicle signage (but not including signs on vehicles doing business within the district), and similar advertising media. Sign requests shall be submitted on an application form as approved by the HPC with date of submission to the Planning Department.
 - b. Signs shall strictly comply with this section of Ordinance 62.
 - c. Signs shall initially be reviewed by staff of the Planning Department as to completeness of the submitted documents. Incomplete applications will not be accepted by the staff of the Planning Department or reviewed by the HPC.
 - d. Complete applications for any signs shall then be submitted to the HPC for review in public session with the HPC voting to approve or disapprove the submitted sign. The Owner of the sign or representative authorized in writing to represent the owner, is required to be in attendance to present the application to the HPC. Owner or Representative shall be authorized to make decisions for - or on behalf of - the Owner.
 - e. Signs must not distract or detract from the visual historic character of the St. Marys Historic District and shall not obscure architectural details of the building and property.
- (6) Specific Regulations:
 - a. No more than two exterior signs per lot. Of the two exterior signs, only one may be pylon or freestanding.
 - b. All freestanding or pylon signs shall be considered a special use, under the requirements of a special use listed in Ordinance 110. In consideration of the special use, applicant shall note the height, size (not to exceed 25 square feet on one side), location, photographs of the location, type of construction, whether the pylon sign will block any historic features, illumination, and whether the sign would create a safety or visibility problem with pedestrians or vehicles as well as other factors that the HPC would need to consider before granting approval. Materials for freestanding signs should use materials that coordinate with the surrounding properties construction design. The base of said signs shall be shielded by plants. Materials for freestanding signs should be of wood or a material that closely resembles wood in appearance.
 - c. Other exterior wall signs shall either be attached flat against the wall or project at 90 degrees from the wall for maximum of 36 inches. Signs flat on the wall shall not project out from the surface more than 6" and not create a safety or visibility problem with pedestrians or vehicles. The total size of all wall and projecting signs is 40 square feet.
 - d. Multi-tenant buildings with separate doors to the exterior may post one sign at each main entry not to exceed two square feet.
 - e. Multi-tenant buildings with one main door to the exterior shall post one sign at the main entry not to exceed 6" by 18" for each tenant stacked vertically.
 - f. Signs may be illuminated from ground mounted up-lamps with no spillover of light that will affect pedestrian and vehicle traffic.
 - g. Backlit, neon, digital, LED, flashing, or changing illumination is prohibited whether located on the exterior or behind the glass and visible from the sidewalk or street
 - h. Non-illuminated signage in the windows of exterior windows shall be no more than 20 square feet to enable visibility into the building for security purposes.
 - i. Signs with changeable or moveable letters/messages are not permitted.
 - j. Roof signs are not permitted.
 - k. Billboards are not permitted.
 - l. Freestanding signs (similar to sandwich signs) may not be located on sidewalks or on street right-of-ways or on medians.
 - m. One push-in real estate sign not to exceed four (4) square feet located OFF of the public ROW are permitted

- n. Political signs not to exceed two (2) square feet per sign for any registered candidate (for any City, County, or Federal election), one per candidate, only on privately owned property with consent of the property owner but NOT within the Right of Way (ROW).
 - o. Yard sale signs are not permitted anywhere within the Historic District.
 - p. Signs advertising businesses or activities not located on the same site as the sign are not permitted.
 - q. Businesses or activities located outside of the Historic District are not permitted to post signage of any type within the Historic District.
 - r. Intensive holiday displays (such as but not limited to festivals/activities relating to Christmas, New Years, Easter, July 4th, Rock Shrimp, Mardi Gras) shall receive a COA from the HPC, as well a City review based on the Assembly portion of the City Ordinances prior to sixty (60) days of the event. Any signage regarding sponsorship shall be limited to 8" by 24".
 - s. Paintings or works of art that do not convey a commercial message are permitted upon approval of the HPC.
 - t. There shall be no signs advertising Alcohol or products containing alcohol.
 - u. Official flags. Official US or GA flags shall be flown in accordance with protocol established by the Congress of the United States for the Stars and Stripes, or State of GA as applicable.
 - v. Traffic safety and traffic directional signs installed within the right-of-way of a public street, and traffic safety and traffic directional signs along private streets driveways, and in off-street parking lots that are installed per the requirements of the city engineer or per city, state, or federal ordinance shall be permitted.
 - w. Street address numbers attached to buildings (maximum letter height 12 inches) to ensure visibility for public service recognition shall be permitted.
 - x. Any sign not visible from a public street does not require Historic Preservation Commission approval.
 - y. Signs pertaining to the time a business, activity, or establishment is open, and conditions under which patrons may receive service, including credit card identification signs or stickers up to a total of all such signs to a maximum of one square feet in area per main entry door.
 - z. Any signage regarding 'official' sponsorship of any event held on a private property shall be limited to 8 inches by 24 inches and not be placed within the ROW. Sponsorship signs shall be permitted to be placed only on the parcel containing the event a maximum of thirty (30) days in advance of the event, with removal ten (10) days after the event.
- (7) Prohibited signs. The following types of signs are prohibited in all zoning districts of the city, except as otherwise specifically provided by this section:
- a. Animated signs.
 - b. Automated changeable copy signs.
 - c. Flashing signs.
 - d. Any air- or gas-filled balloons.
 - e. Portable signs.
 - f. Pylon signs not otherwise permitted per this Section.
 - g. Roof signs not permitted.
 - h. Sidewalk signs not otherwise permitted per this Section.
 - i. Streamers and pennants.
 - j. Signs that imitate an official traffic sign or signal. This includes signs that use colored lights at any location or in any manner so as to be confused with, or construed as, traffic control devices.
 - k. Signs within the right-of-way, including those attached to traffic signs or telephone poles, trees, the ground, or vehicles of any wheeled or wheel-less type.
 - l. Signs attached to trees, other natural features and utility poles.
 - m. Signs attached to courtesy benches, trashcans, and similar devices, with the exception of signage related to the ownership of such items.
 - n. Trailer mounted signs.
 - o. Banners.
 - p. Any sign or outdoor advertising display that depicts any material which is obscene as defined in O.C.G.A. § 16-12-80.
 - q. Any sign or outdoor advertising display that shows nudity as defined in O.C.G.A. § 32-6-75.
 - r. Signs illuminated in such a way that they cast intense light onto any residential premises or public roadways, or impair motorist vision, as determined by law enforcement personnel.
 - s. No exterior outdoor advertising or interior advertising visible from the exterior shall be erected in the city advertising or promoting the sale of alcoholic beverages.
 - t. Signs shall not be erected, constructed or maintained so as to obstruct any fire escape, any window, door or opening used as a means of egress.
 - u. All portable signs.

- v. State law prohibits the placement of any sign on city right-of-ways, including political signs. Signs on the city or state right of ways are considered littering and a misdemeanor and be subject to the fines for littering and for removal costs as noted herein.
 - w. All signs prohibited by the Official Code of Georgia.
 - x. Consistent with the Internal Revenue Code of 1954 Rev. Rule 585-89(7)(b), a private club should not advertise its facilities for nonmember patronage since this would be prima facie evidence it was engaging in business.
 - y. Push in signs for any purpose (except real estate signs and signs not to exceed two (2) sf per sign for any registered candidate for any City, County, or Federal election) are not permitted within the Historic District or on privately owned property or within the street Right of Way (ROW).
- (8) Administration
- a. All signs erected within the St. Marys Historic District must have approval of the Historic Preservation Commission.
 - b. A Certificate of Appropriateness (COA) application in a form approved by the HPC must be completed, submitted to the Planning Director or designated staff member for completeness at least fifteen (15) days in advance of the regularly scheduled monthly meeting.
 - c. The Application will be reviewed and approved by the historic preservation commission at their regularly scheduled monthly meeting.
 - d. The applicant for a COA must be in attendance to present their application. A written letter of authorization for another to represent them can be provided should the applicant wish to have another represent them.
 - e. Upon approval, all signs must conform to the regulations of this article.
 - f. The director of planning or designated staff member shall be authorized to issue sign permits after approval by the HPC in accordance with the provisions of this article.
 - g. The city shall process all sign permit applications within 30 business days of the city's actual receipt of both a completed and approved COA and a sign permit fee. In no event, except with permission of the applicant, may the director of planning or designated staff member delay acting upon a sign permit application.
 - h. The director of planning or designated staff member shall reject any application containing any false material statements or omissions. Any rejected application later resubmitted shall be deemed to have been submitted on the date of re-submission, instead of original submission. Should it be determined that a sign permit was issued pursuant to an application containing a false material statement or omission, the director of planning or designated staff member shall revoke said application and the subject sign shall be removed. A revocation pursuant to this section shall be appealable pursuant to this article.
 - i. Sign permit expiration date. A sign permit shall become null and void if the sign for which the permit was issued has not been completed within 12 months after the date of issuance. No refunds will be made for a permit after the permit is issued. If later an individual desires to erect a sign at the same location, a new application for the sign must be processed, the approval process restarted from the beginning, and another fee paid in accordance with the fee schedule applicable at such time.
 - j. Sign permit fees. No sign permit shall be issued until the appropriate application has been filed with the director of the department of planning or designated staff member and fees have been paid as adopted from time to time by the St. Marys City Council.
 - k. Upon failure of the sign owner, lessee, or property owner to comply with this article, the planning director shall give written notice of intent to obtain a removal order, by registered or certified mail with return receipt requested, to the sign owner, lessee, or property owner. Among other items, provided to the sign owner will be a written notice, certified and return receipt requested, to be and appear at the next regularly scheduled meeting of the HPC to show cause why said sign should not be subject to a removal order. At such meeting the following will transpire.
 - (1) The planning and zoning director will provide the reasons why the sign should be removed and the sign owner will be awarded the opportunity to explain why the sign should remain.
 - (2) Afterwards, members of the general public may be granted the opportunity to speak at the discretion of the planning commission chairman. Thereafter, any member of the planning commission may make a motion to take action.
 - (3). upon the motion being seconded, discussion will follow customary meeting procedures as contained elsewhere in Section 62 – Historic Preservation.
- (9) Nonconforming signs.
- a. Nonconforming signs that met all legal requirements when erected may stay in place until the deterioration of the sign or damage to the sign makes it a threat to public safety, and no repairs have been effected within five days of receipt of registered or certified notice, return receipt requested, from the director of planning or building directing that immediate repairs are necessary to protect public safety. Any sign

removed in accord with this section, shall not be replaced except in accord with the current requirements of this article.

b. Any nonconforming sign shall either be eliminated, or made to conform with the requirements of this article, when any proposed change, repair, or maintenance would constitute an expense of more than 50 percent of the lesser of the original value or replacement value of the sign.

- (10) Enforcement. This article shall be administered and enforced by the director of the department of planning or building or his or her designee. In case any sign that is proposed to be erected, constructed, altered, converted, or used in violation of any provision of this article, the director of the department of planning or building may, in addition to other remedies, and after notice to the appropriate person, issue a citation for violation of the city ordinance thereby requiring the presence of the violator in municipal court; institute the filing of a petition for an injunction, or other appropriate action or proceeding to prevent such unlawful erection, construction, alteration, conversion, or use to correct or abate such violation. Additionally, the director of the department of planning or building may have the sign removed at the expense of the owner with a lien filed against the property, and may issue a citation for violation of the city ordinance to the agent that placed the sign, as well as those parties responsible for directing the agent, including the person or business owner whose name, message, and/or address, and/or telephone number appears on the sign.

a. The City, without warning or notice to the sign owner, may remove any sign located within a public street right-of-way immediately. Signs so removed shall be immediately destroyed without any consideration of compensation to the sign owner, known or unknown.

b. Penalty for violation. Any person violating any provision of this article or conditions of the issued permit, or stop-work order shall be subject to a fine up to \$1,000 per violation per day or by imprisonment for a period not to exceed 60 days, or both.

c. City occupation taxes, public liability insurance required. It shall be a violation of this article for any person to engage in the business of erecting or maintaining signs within the city, unless and until such entity shall have paid a city occupational tax or furnished proof of payment of an occupation tax to another municipality or county, reference section 22-24 of the St. Marys Code of Ordinances, and a certificate of insurance from an insurance company authorized to do business in the state evidencing that the person or entity has in effect public liability and property damage insurance.

d. Termination of sign permit and/or city occupation license. Violation of any provision of this article will be grounds for terminating the sign permit granted by the city to the owner and/or the occupation tax certificate of the person or entity erecting the sign. Except as otherwise provided in this article, no permit and/or occupation tax certificate shall be suspended, revoked or canceled except for cause as hereinafter defined, and the permittee is granted a public hearing before the planning commission. The permittee will be given ten days' written notice, by certified mail and return receipt requested, of the time, place and purpose of the hearing, with a statement of the reason for the suspension, revocation or canceling of such permit and/or certificate. "Cause" is the willful and/or continued violation of the provisions of this article. The termination of the permit and/or license does not in any way preclude the person or persons alleged to have violated the provisions of this article from being tried under the enforcement provisions of this article. Should a permittee fail to pick up the certified mail, and said mail is returned, this failure to pick up will not delay the termination action or create any defense to stay any enforcement action.

e. Removal of abandoned signs. It is the intent of this section to establish reasonable time periods for the removal of abandoned signs. For purposes of this section, all signs pertaining to a business, service, institution, industry, or other activity that ceases operations shall be deemed to be abandoned. For purposes of this section, "ceases operations" shall be interpreted literally and to include cases where there is substantial evidence that a business or activity has vacated the building or grounds; provided, further, that this section shall not apply to any case where a business or activity is temporarily suspended and there is evidence that the business or activity will resume operations within a specifically designated period. It shall be the responsibility of the property owner, the operator of a business or activity discontinuing a lease if any, and the leasehold manager if any, ensuring compliance with the provisions of this section and each owner, operator, or manager shall be considered individually responsible for compliance with this section. Property owners will be given written notice, by certified mail with return receipt requested, of the appropriate procedures necessary for abandoned signs. Should a property owner fail to pick up the certified mail, and said mail is returned, this failure to pick up will not delay the termination action or create any defense to stay any enforcement action.

(1) All abandoned signs that meet the definition of a window sign, wall sign, off-premises directional sign, marquee or canopy sign, temporary sign requiring a permit, or temporary sign, shall be removed within ten days from the date of discontinuance. The director of planning or building may permit an extension of this removal period only in cases where special equipment is needed to remove the sign and removal of the sign structure cannot reasonably be arranged by the sign owner within the ten-day time period.

(2) All abandoned signs that meet the definition of a pylon sign shall be removed within 60 days from the date of discontinuance. The director of planning or building may permit one 30-day extension of this removal period only in cases where special equipment is needed to remove the sign or sign structures, and removal of the structure cannot reasonably be arranged by the sign owner within the 60-day time period.

(3) This section shall not apply to the structure of a monument sign, provided that it might reasonably be used by a future tenant or property owner, complies with the provisions of this article, and is maintained in good condition; provided further, that the following shall be met:

- a. If an abandoned monument sign contains a message panel that is removable from the monument structure without disassembling the monument, then within 30 days of the date of discontinuance said panel shall be removed and the portion of the monument structure that previously held the message panel shall be covered with durable cloth or canvas to avoid the appearance of blight, until such time as a new sign permit is applied for and granted and an approved sign panel is installed in said monument.
- b. If an abandoned monument sign contains a sign copy area that is not removable without disassembling the monument, then said sign copy area shall be modified (e.g., painted over) or covered with durable cloth or canvas so that the sign copy pertaining to the business or activity discontinued is no longer visible, until such time as a new sign permit is applied for and granted and approved sign copy is affixed on the sign copy area of said monument.
- c. Removal of signs not maintained. All signs shall be maintained by the property owner in good condition so as to present a neat and orderly appearance. The director of the department of planning or building may remove or cause to be removed, after proper written notice, any sign that shows gross neglect, becomes dilapidated, or in the opinion of the chief building inspector poses a threat to public safety. The director of the department of planning or building or his designee will give the owner 45 days written notice, by certified mail with return receipt requested, to correct the deficiencies or to remove the sign or signs, except signs that pose a threat to public safety which shall be removed in accord with this section. If the owner refuses to correct the deficiencies or remove the sign, the director of the department of planning or building or his designee will have the sign removed at the expense of the owner, with a lien filed against the property. Should a permittee fail to pick up the certified mail, and said mail is returned, this failure to pick up will not delay the termination action or create any defense to stay any enforcement action.

Sec. 62-115. Submission of plans.

In order for an application for a certificate of appropriateness to be reviewed, it must be submitted at least 15 days prior to a scheduled meeting of the commission. An application for a certificate of appropriateness shall be accompanied by such drawings, photographs or plans as may be required by the commission and as outlined on the Historic Commission's Rules and Regulations. The application for a certificate of appropriateness will be logged in by the Planning Director or designated staff on the day it was received and copies of all applications for certificates of appropriateness shall be given to the chairman and all board members of the historic preservation commission no later than ~~44~~ seven (7) calendar days before the regularly scheduled monthly meeting of the commission. **No application for a COA will be considered complete without a date.**

Sec. 62-116. Commission reaction to application.

- (a) The commission shall approve the application and issue a certificate of appropriateness if it finds that the proposed material changes in the appearance would not have a substantial adverse effect on the aesthetic, historic or architectural significance and value of the historic property or the historic district. In making this determination, the commission shall consider, in addition to any other pertinent factors as outlined herein and in other sections of the ordinance, the historical and architectural value and significance, architectural style, general design arrangement, scale, mass, context, texture, and material of the architectural features involved and the relationship thereof to the exterior architectural style, and pertinent features of the site and other structures in the immediate neighborhood.
- (b) The commission shall deny a certificate of appropriateness if it finds that the proposed material change in appearance would have identifiable adverse effects on the aesthetic, historic or architectural significance and value of the historic property or the historic district.
- (c) The commission may make approval of a certificate of appropriateness conditional upon complying with certain situations which may be listed in the certificate. Such stipulations are to be used only to diminish the adverse impact of the changes in material appearance proposed in the application for a certificate of appropriateness.

Sec. 62-117. Public Meetings; notices; right to be heard.

At least seven days prior to review of a certificate of appropriateness, the commission shall take such action as may reasonably be required to inform the owners of any adjacent property likely to be affected materially by the change in material appearance

for which the application for a certificate of appropriateness has been made. All meetings of the commission at which applications for certificate of appropriateness are being discussed shall be open to the public.

At least seven days prior to review of a certificate of appropriateness, staff shall post a sign on the parcel under consideration for any request for a certificate of appropriateness. The sign shall identify the parcel, note the nature of the request, and the date and time of the public meeting.

Sec. 62-118. Interior alterations.

In its review of applications for certificates of appropriateness, the commission shall not consider interior arrangement or use having no effect on exterior architectural features, unless the applicant specifically requests same, or the interior is listed as part of the National Register designation.

Sec. 62-119. Technical advice.

When dealing with technical questions, the commission shall have the power to seek expert advice.

Sec. 62-120. Deadline for approval or rejection of application.

The commission shall approve or reject an application for a certificate of appropriateness within not more than 45 days after the hearing of the application. Evidence of approval shall be a certificate of appropriateness issued by the commission. Notice of approval or denial of a Certificate of Appropriateness shall be sent by United States mail to the applicant at the address listed on the application and all other persons who have requested such notice in writing filed with the Historic Preservation Commission.

Failure of the Historic Preservation Commission to act with said forty-five (45) days shall constitute approval, and no other evidence of approval shall be needed. Applicant may request that the HPC postpone any approval or denial of the application beyond the forty

Sec. 62-121. Necessary actions taken by commission upon approval of application.

When a Certificate of Appropriateness is issued by the Historic Preservation Commission, the applicant shall submit drawings and specifications and all other required data to the Building Department of the City of St. Marys for receipt of a building permit. The Building Permit shall list on the face of the documents whether the property is in a historic district and if the certificate of appropriateness was approved with the date. Lack of inclusion of this data on the request for a building permit will delay processing of the application.

Sec. 62-122. Necessary actions taken by commission upon rejection of application.

If the commission rejects an application, it shall state its reasons for doing so, and shall transmit a record of such actions and reasons, in writing, to the applicant. The commission may suggest alternative courses of action it thinks proper if it disapproves the application submitted. The applicant, if he so desires, may make modifications to the plans and may resubmit the application at any time after ~~doing so~~ making said modifications. The same procedure shall be followed for resubmission as for a new submission using the data included in this ordinance.

In cases where the application covers a material change in the appearance of a structure which would require the issuance of a building permit, the rejection of the application for a certificate of appropriateness by the commission shall be binding upon the building official. In such a case, no building permit shall be issued.

Sec. 62-123. RESERVED

Sec. 62-124. Requirement of Conformance with Certificate of Appropriateness

- (1) All work performed pursuant to an issued Certificate of Appropriateness shall conform to the requirements of such certificate. In the event work is not performed in accordance with such certificate, the Historic Preservation Commission shall issue, through the office of the Building Director, a cease and desist order and all work shall cease.

The building official shall issue stop-work orders for projects within the preservation jurisdiction of the commission upon order of the commission if:

- (1) Work has begun which requires a certificate of appropriateness without such certificate.
- (2) Work has begun with an expired certificate of appropriateness.
- (3) It is done not in accordance with an issued certificate of appropriateness.

In all such cases the owners of the projects involved may apply for a certificate of appropriateness and upon the issuance of a certificate of appropriateness, the stop-work order will be removed immediately.

If any member of the Historic Preservation Commission observes construction from the public street that may not be in compliance with the approved Certificate of Appropriateness, the Commission member shall communicate his concerns to the Building Director for investigation. The Commission Member shall not approach the applicant or engage in any discussions related to the Building Permit. Once an application for a COA is completed and submitted for consideration, no individual member of the HPC will engage in an ex parte communication/s with the applicant regarding the form and/or substance of the pending application, nor will said member take any individual action in an official capacity pursuant to the COA application prior to the meeting where the applicant's COA is to be reviewed by the HPC.

Sec. 62-125. Certificate void if construction not commenced.

A certificate of appropriateness shall become void unless construction is commenced within six months of the date of issuance. A single six (6) month extension shall be considered by the Historic Preservation Commission where the delay in the start of the work has been delayed for reasons beyond the direct control of the applicant. No further extension will be considered.

Certificates of appropriateness shall be issued for a period of 18 months and are renewable upon written request of the holder of the Certificate of Appropriateness at least thirty (30) days in advance of the 18 month period. Commencement of construction shall be defined as the date of initial application for a building permit. Where a building permit is not required, commencement of construction shall be defined as two (2) weeks after the issuance of the Certificate of Appropriateness.

Sec. 62-126. Recording of applications, proceedings.

The Historic Preservation commission shall keep a public record of all applications for certificates of appropriateness, and of all the commission's proceedings in connection with the application.

Sec. 62-127. Acquisition of property.

The commission may, where such action is authorized by the mayor and council and is reasonably necessary or appropriate for the preservation of a unique historic property, enter into negotiations with the owner for the acquisition by gift, purchase, exchange or otherwise, of the property or any interest therein.

Sec. 62-128. RESERVED

Sec. 62-129. RESERVED

Sec. 62-130. Allegations of misconduct by any member of the Historic Preservation Commission

Any allegation of improper conduct by any member of the Historic Preservation Commission shall be referred to in writing to the City of St. Marys Ethics Board. Any person making allegations shall follow the procedures of the Ethics Commission regarding any allegation. The Historic Preservation Commission shall not be involved in any manner with the complaint except to make testimony as requested by the Ethics Board.

Secs. 62-131--62-150. Reserved.

DIVISION 5. DEMOLITION OR RELOCATION PERMIT

Sec. 62-151. Authority to comment on applications.

The commission shall have the authority to grant or deny any request for a permit to demolish or relocate a structure within a historic district, or on a historic property.

Sec. 62-152. Considerations of post-demolition plans.

The commission shall not grant demolition or relocation permits without reviewing at the same time the plans for the building or other development that would replace the structure. Plans to be submitted shall be similar in scope and detail as required for a new construction certificate of appropriateness.

Sec. 62-153. Demolition or relocation criteria.

(a) The commission shall evaluate the effect the demolition or relocation of a building will have on the historical character of the historic district or historic property affected. If the commission determines that demolition or relocation would have a negative effect, it will deny the certificate of appropriateness unless:

- (1) The structure has been damaged or destroyed by an act of god or fire, and the cost to repair is greater than the cost of new.
- (2) The structure has been declared structurally unsound by a licensed GA Professional Engineer with primary area of expertise in structural engineering.

(3) The building in question is classified as an intrusion.

(b) Whenever a property owner shows that a building is incapable of being successfully rehabilitated or used, such building may be demolished or relocated; provided, however, that the issuance of a certificate of appropriateness shall be subject to a delay of demolition or relocation and that notice of the proposed demolition or relocation shall be given as follows:

- (1) For buildings rated historic-- twelve (12) months.
- (2) For buildings rated historic-obscured - twelve (12) months.
- (3) For buildings rated non-historic - Three (3) months.
- (4) For buildings rated intrusion--no delay.

(c) Notice shall be posted on the premises of the building or structure proposed for demolition in a location clearly visible from the street. In addition, notice shall be published in a newspaper of general local circulation at least three times prior to the date of the permit, and the first notice of which shall be published no more than 15 days after the application for a permit to demolish is filed. The purpose of this section is to further the purposes of this article by preserving historic buildings which are important to the education, culture, traditions and the economic values of the city, and to give the city, interested persons, historical societies or organizations the opportunity to acquire or to arrange for the preservation of such buildings. The commission may at any time during such delay ~~stay~~ approve a certificate of appropriateness that would preserve and/or restore the structure, in which event a permit shall be issued without further delay.

Sec. 62-154. Emergency demolition permits.

If the building official determines that a landmark or existing building in a historic district poses immediate threat to the safety of the community, he may convene an emergency meeting of the commission. At such times the commission may authorize the emergency demolition of such structures.

Sufficient data to justify the emergency demolition shall be provided to the Historic Preservation Commission for use in making the determination. Written backup of any verbal or field decisions shall be provided to the Commission within two (2) weeks of the emergency declaration.

DIVISION 6. MAINTENANCE OF PROPERTY

Sec. 62-176. Ordinary repair.

Ordinary maintenance or repair of any exterior architectural feature in or on an existing building that does not involve a material change in design, material or outer appearance thereof is excluded from review and does not require a certificate of appropriateness.

The property owner shall notify – and make application to - the City Building Department of any proposed work to make sure that no permits are required and to avoid any uncertainty as to the scope of work.

Sec. 62-177. Conformity to existing building codes.

Nothing in this article shall be construed as to exempt property owners from complying with existing city building codes, nor to prevent any property owner from making any use of his property not prohibited by other statutes, ordinances or regulations.

Sec. 62-178. Demolition by neglect prohibited.

Property owners of historic properties, buildings in historic buffer areas or historic districts will not allow their buildings to deteriorate or be demolished by neglect. Demolition by neglect can result in the loss of valuable portions of the city's heritage as well as being a hazard to public safety and a public nuisance. The commission will be charged with the following duties and responsibilities regarding demolition by neglect:

- (1) The commission will monitor the condition of landmarks and existing buildings in historic districts and historic buffer areas to determine if they are being allowed to be demolished by neglect. Such conditions as the existence of broken windows, doors and openings which allow the elements and vermin to enter structure; the deterioration of exterior architectural features; and the deterioration of a building's structural system shall constitute demolition by neglect.

If the commission determines a state of demolition by neglect exists, the chairman of the commission will notify the owner and/or occupant of such property of the existence of a condition and the steps which need to be taken to remedy it. The owner and/or occupant of such property shall have thirty (30) days to remedy the condition or submit a plan for resolution as per Section 62-179 below.

DIVISION 7. ENFORCEMENT, APPEALS, HARDSHIP AND PENALTIES

Sec. 62-179. Enforcement and Penalties

- (a) This article shall be enforced by the City Marshall and/or Building Director of the City of St. Marys or their duly authorized representatives, as applicable.
- (b) Whenever it is necessary to make an inspection to enforce the provisions of this Article, or whenever a police officer or code enforcement officer has reasonable cause to believe that there exists upon any property a condition or violation which is unsafe, dangerous, hazardous, or detrimental to the public interest, the officer may enter upon the grounds of such property at all reasonable times to inspect the same; provided, however that if such structure or property is occupied, the officer shall first present proper credentials and request entry upon such grounds. If such entry is refused, the officer shall have recourse to every remedy provided by law to secure entry upon such grounds.
- (c) The initial observation of any deficiency under this Ordinance shall consist of a courtesy letter, with notations as to the nature of the deficiency, and a request to provide a resolution plan as to how the property owner intends to address and/or eliminate the deficiency within thirty (30) calendar days from the date of receipt of the courtesy letter. Once the resolution plan is reviewed and approved by HPC and the Building Director, the property owner shall eliminate the deficiency within thirty (30) calendar days. If the elimination of the deficiency is determined to take longer than thirty (30) days as reviewed and approved by the Building Inspector, this shall be noted on the plan of resolution.
- (d) If no resolution plan is submitted within the time noted, or if the deficiency is not resolved within the time noted, then penalties will be assessed and enforced as noted below.
 1. *Fine and/or Sentence.* Any person convicted by a court of competent jurisdiction of violating any provision of this article shall be guilty of violating a duly adopted ordinance of the City of St. Marys and shall be punished for each count either by a fine not less than \$100 per day not to exceed \$1,000, or by a sentence of imprisonment not to exceed 60 days in jail, or both a fine and jail or a community work alternate as determined by the Court.
 2. *Powers of the Court.* The court shall have the power and authority to order the violation corrected in compliance with this article and the court may require payment of restitution or impose other punishment as allowed by law.
 3. *Other Legal Remedies.* In any case in which a violation of this article has occurred, the City of St. Marys, in addition to other remedies provided by law, may petition for a restraining order, injunction, abatement, or take any other appropriate legal action or proceeding through a court of competent jurisdiction to prevent, restrain, or abate such unlawful use or activity.

Sec. 62-180. Appeals/Hardship.

- (a) Appeals: Any person adversely affected by any determination made by the Historic Preservation commission relative to the issuance or denial of a certificate of appropriateness may appeal such determination to the mayor and city council; the appeal must be applied for within Thirty (30) calendar days after notification is sent. The mayor and city council may approve, modify, or reject the determination made by the Historic Preservation commission if they find the commission abused its discretion in reaching its decision by violating procedures set forth in this article. Appeals to the mayor and city council may be appealed to the Superior court of Camden County in a manner provided by law for appeals from conviction of ordinance violations.
- (b) Hardship: Where, by reason of unusual circumstances, the strict application of any provision of this division would result in the exceptional practical difficulty or undue hardship upon any owner of a specific property, the commission, in passing upon applications, shall have the power to vary or modify strict adherence to the provisions, or to interpret the meaning of the provisions, so as to relieve such difficulty or hardship; provided such variances, modifications or interpretations shall remain in harmony with the general purpose and intent of the provisions, so that the architectural or historical integrity, or character of the property, shall be conserved and substantial justice done. In granting variances, the commission may impose such reasonable and additional stipulations and conditions as will, in its judgment, best fulfill the purpose of this article. An undue hardship shall be a situation not of the applicant's own making, nor will economic hardship be the sole reason for request of a designation of undue hardship.
- (c) In the event that compliance with any sections of this ordinance are the result of issues beyond the control of the Citizen, thereby creating a hardship, the citizen has the right to request a determination of hardship. This determination shall be requested by the Citizen via written letter to the Planning Director, stating the reasons for a hardship determination. This determination shall be requested after the issuance of a courtesy letter outlining the deficiencies and prior to the issuance of any formal citation, the Citizen.
 1. This letter shall be received within Thirty (30) calendar days of receipt of any courtesy citation.
 2. The basis for a determination of the economic hardship of the proposed action on the citizen shall be made by the Planning Director, with appeal of any decision to City Council.

3. The receipt of the letter by the Planning Director will postpone any other legal remedy outlined above for the period of time that the petition is being reviewed by the Planning Director and – in the event of an appeal - by the Council.
4. The letter shall also outline the method and timing of the resolution of the issue, based on the ability of the Citizen to comply with this ordinance.

*** End ***